HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 NO. 1022 OF 2001

Shri Brij Raj Tomar,
S/o Shri Omprakash,
R/o Village Beghumabad- Garhi,
P.S. Dohat, Distt. Bhagpal. .....Petitioner.

Vs.

1. State of Uttaranchal.
2. C.J.M., Dehradun. .....Respondent.

Hon'ble Rajesh Tandon, J.

Heard Sri Ashok Aggarwal, counsel for the petitioner and A.G.A. for the State.

2. By the present petition filed under Section 482 of the Code of Criminal Procedure, petitioner has prayed for quashing the charge-sheet filed in case Crime No. 65/2000 which is registered as 1878 of 2000 State Vs. Brijraj Singh or to direct reinvestigation in the matter.

3. According to the FIR dated 02.02.2000, the applicant has given fake date of birth certificate as such FIR was lodged under Section 420/467/468/471 I.P.C.

4. The petitioner filed a criminal writ being Crl. Writ No. 1670 of 2000 before the High Court of Judicature at Allahabad. The Court on 31.03.2000 was pleased to stay the arrest of the petitioner to the following effect:

> "Learned A.G.A. has accepted notice for respondents no. 1 to 3. He prays for and is granted

four week's time to file counter affidavit. The petitioner will have two weeks thereafter to file rejoinder affidavit. List this petition after expiry of the aforesaid period.

Meanwhile the petitioner shall not be arrested in case Crime No. Nil of 1999 under Section 420/467/468/471 I.P.C. P.S. Dharasu, District Uttar Kashi until further orders or till charge-sheet is filed, whichever is earlier. The petitioner, however, shall cooperate with investigation and shall appear before the Investigating Officer whenever required in writing."

5. In ***Medchl Chemicals and Pharma (P) Ltd. v. Biological E. Ltd. and others (2003) 3 SCC 269,*** the Apex Court has been observed as under:

> "*19. Considering the factual aspect of the matter, we unhesitatingly state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. We, thus, without expressing any opinion on the merits of the case allow the appeal and set aside the impugned order of the high Court and restore the complaint. The learned trial Magistrate shall proceed with the complaint and dispose of the same in accordance with the law with utmost expedition. Be it clarified however that observation as above in this judgment be not*

taken as an expression of any opinion of ours."

6. Since it is complaint case, therefore, it is relevant to quote following portion of ***Smt. Husna and others v. State of U.P. and others [2006 (56) ACC 659]:***

"7. The petition is finally disposed of witht eh direction to the petitioners to appear before the Court concerned within 15 days of passing of this order and if they do so, the Court will permit them to file appearance bonds to his satisfaction for their regular appearance in the case."

7. In view of the aforesaid the applicant is directed to present himself before the Magistrate concerned, who shall consider the release of the applicant as expeditiously as possible and the applicant shall ensure his presence by furnishing personal bond as well as sureties to the satisfaction of the Magistrate concerned for his regular appearance in the case.

8. Subject to the observations made above, petition under Section 482 Cr.P.C. is dismissed.

(Rajesh Tandon, J.)

1st December, 2006
Rathour.